IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL REVISION APPLICATION NO. 34 OF 2001.

Shri Rajendra P. Halenkar,
major, c/o. M/s. Shree
Laxmi Saw Mill,
Bastora, Bardez Goa. ... Petitioner.

Versus

1. Shri Mangal Premaram Bhagwanomi,
   r/o BE-30, Ekta Nagar, Housing
   Board, Mapusa, Goa.
2. State of Goa. ... Respondents.

Mr. J. Godinho, Advocate for the Petitioner.

Mr. P.A. Kholkar, Advocate for the Respondent No. 1.

Mr. A.P. Lawande, Public Prosecutor for the Respondent No. 2 State.

Coram: P.V. HARDAS, J.

Date: 28th March 2002.

ORAL JUDGMENT.

The applicant stands convicted for an offence punishable under Section 138 of the Negotiable Instruments Act in respect of bouncing of cheque of the value of Rs. 1 lakh issued by the applicant/accused to the respondent/complainant. The learned Judicial Magistrate, First Class, Mapusa, by Judgment dated 20th April 2000 convicted the applicant/accused for the aforesaid offence and sentenced the applicant to undergo imprisonment till the rising of the Court and had further directed the applicant/accused to pay compensation of Rs. 1 lakh, in default to undergo simple imprisonment for 3 months. The learned Judicial Magistrate, First Class had also directed that the

amount of compensation so recovered from the applicant/accused be paid to the respondent/complainant. The applicant/accused being aggrieved by the aforesaid Judgment and conviction in Other Act Cri. Case No. 52/1997/Ist-Jr., filed Criminal Appeal No. 14 of 2000 before the Additional Sessions Judge, Panaji. The learned Additional Sessions Judge, by his Judgment dated 27th July 2001 dismissed the appeal. The applicant/accused being aggrieved by the aforesaid dismissal of his Criminal Appeal, has filed the present Criminal Revision.

2. Mr. Godinho, the learned counsel appearing for the applicant/accused, seeks leave of this Court to join the State of Goa as party respondent to the present Revision. Leave is granted and the applicant/accused is allowed to join the State of Goa as respondent no. 2 to this Revision. The respondent no. 2 is represented by Mr. Lawande, the learned Public Prosecutor, who waives notice on behalf of respondent no. 2. Therefore, by consent of the parties, this revision, which has been admitted, is taken up for final hearing.

3. Mr. Godinho, the learned counsel appearing for the applicant and Mr. Kholkar, the learned counsel

appearing for the respondent no. 1/complainant have placed before me the consent terms which have been filed by the aforesaid parties in Special Civil Suit No. 11/99/SR/I. The consent terms have been filed before the Civil Judge, Senior Division, Mapusa and the learned Civil Judge, Senior Division, on the basis of the consent terms, had decreed the suit filed by the non-applicant/defendants. The parties have agreed that in respect of bouncing of cheque, which was the subject matter of criminal complaint before the Judicial Magistrate, First Class. Mapusa, the non-applicant/complainant has agreed to accept an amount of Rs. 75,000/- as full and final settlement of his claim. The consent terms also in terms refer to the fact that the non-applicant/complainant has received the sum of Rs. 75,000/-. The consent terms filed are taken on record. Both the parties, therefore, submit that this Court may, therefore, modify the quantum of compensation awarded by the trial Court from Rs. 1 lakh to Rs. 75,000/-.

4. I have heard the learned counsel appearing for the applicant and the learned counsel appearing for the respondents 1 and 2. The parties to the present matter have settled their claim and the consent terms have been placed on record. The sentence of

imprisonment till the rising of the Court has already been served by the applicant/accused. However, in view of the compromise, I am inclined to accept the plea of the applicant/accused for reduction of compensation from Rs. 1 lakh to Rs. 75,000/-. In pursuance to the Order of this Court, the applicant had deposited an amount of Rs. 50,000/- in this Court and, in view of the Order I propose to pass, the applicant will be entitled to withdraw the amount of Rs. 50,000/- alongwith accrued interest, either on the maturity of the Fixed Deposit or earlier to that.

5. In view of the consent terms, which are placed on record, this Criminal Revision Application is partly allowed. The Judgment of the learned Judicial Magistrate, First Class, Mapusa and the Judgment of the learned Additional Sessions Judge, Panaji, to the extent of awarding compensation of Rs. 1 lakh, is modified and compensation of Rs. 75,000/- is substituted. It is, therefore, directed that the non-applicant/complainant will be entitled to receive Rs. 75,000/- as compensation in place of Rs. 1 lakh as directed by the Courts below. The non-applicant/complainant states that an amount of Rs. 75,000/- has been received by him as compensation and no amount as compensation is now due and payable by the

applicant/accused. As submitted above, the applicant/accused will be entitled to withdraw the amount of Rs. 50,000/- deposited by him in this Court.

6. This Revision is, therefore, partly allowed.

(P.V. HARDAS)
JUDGE.

ed's.